

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN
ATTORNEY GENERAL OF THE STATE
OF ILLINOIS

VS.

Respondents – Appellees.

No. _____

Petition for Review of Orders of the Illinois Commerce Commission

The People seek reversal of these Orders because the Commission acted outside its jurisdiction and beyond the scope of its authority by approving in its February 5, 2008 Order an automatic rate adjustment mechanism known as Rider Volume Balancing Adjustment (“Rider VBA”), which “decouples” the link between customer usage of natural gas delivery service and revenues collected by North Shore Gas Company and Peoples Gas Light & Coke Company (“the Companies”). The Commission’s Approval

of Rider VBA was contrary to State law and governing Illinois judicial precedent because it violated the prohibition against single-issue ratemaking and retroactive ratemaking. In addition, the Commission's approval of Rider VBA contradicts principles of utility ratemaking established by the United States Supreme Court and adopted by Illinois courts that a utility's rates should reflect the opportunity – not a guarantee – to earn a return on its used and useful property when regulators set rates. The Commission's approval of Rider VBA also violates the Commission's Test Year Rules. 83 Ill.Admin.Code Part 287.10, 287.20, as well as the prohibition against unreasonably discriminatory rates in Section 9-241 of the Public Utilities Act ("the Act"). The Commission also erred as a matter of law in concluding that it had the "discretionary authority" to approve Rider VBA. The Commission's approval of Rider VBA also violated the least cost provisions of the Public Utilities Act. *See* 220 ILCS 5/91-102(a), 8-401. The Commission further erred in concluding that lost revenues due to conservation and energy efficiency were recoverable from ratepayers, in violation of governing judicial precedent and Section 10-201(e)(iv)(C) of the Act.

In addition, the People seek review of the Commission's conclusion that the record evidence supported adoption of Rider VBA. In fact the substantial evidence of the record clearly disproved the Companies' position that Rider VBA was needed to recover "margin revenues" or was justified because of the adoption of a \$7.5 million energy efficiency program.

The People further seek review of the Commission's Orders because the Commission erred as a matter of law in directing one of the Administrative Law Judges who heard the case to prepare a new, substantially altered Proposed Order that reversed a

previously filed Proposed Order on the issue of Rider VBA and then denying parties the opportunity to file written exceptions to the conclusions contained therein, contrary to the procedural process envisioned under both Section 10-111 of the Act and the Commission's Rules of Practice.

The People also seek review of the Commission's Orders because the Commission erred as a matter of fact and law in arbitrarily selecting a 10-point reduction to the Companies' allowed rate of return on equity, in an attempt to reflect the Companies' reduced risk associated with the Commission's adoption of Rider VBA.

Finally, the People further seek review of the Commission's Orders because the Commission erred in its failure to reflect in the Companies' rate base the increase in accumulated depreciation related to the Commission's acceptance of the Companies' forecasted additions to plant in service. In doing so, the Commission erred as a matter of fact and law in relying on a prior Commission decision as the basis for its decision to not reflect in the Company's test year rate base the increase in accumulated depreciation related to the accepted forecasted additions to plant in service. This error wrongly increased the rates of Peoples Gas and North Shore Gas customers.

On all of these issues for appeal, the Commission's Orders are not supported by substantial evidence in the record as a whole, contrary to law, arbitrary and capricious and beyond the jurisdiction of the Commission, contrary to Section 10-201(e)(iv)(A-D) of the Public Utilities Act.

All of these bases for judicial review of the Order are set forth in the People's timely filed Application for Rehearing, filed in ICC Docket Nos. 07-0241, 07-0242 on March 10, 2008, denied by the Commission on March 26, 2008 and served on March 28,

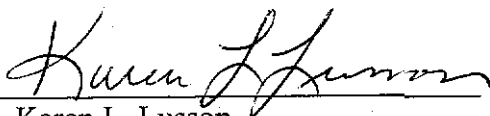
2008. The People request that the Court determine the lawfulness of the Orders at issue, and request that these Orders be reversed and remanded, and that the Court order such other relief as it deems just and proper.

Attached hereto is a copy of the People's Notice of Appeal, filed with the Commission pursuant to Section 10-201(b) of the Public Utilities Act, 220 ILCS 5/10-201(b), together with proof of service of the Notice of Appeal.

Dated: May 2, 2008

Respectfully submitted,

THE PEOPLE OF THE STATE OF ILLINOIS
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***LIST OF ADDITIONAL APPELLEES**

(Pursuant to Illinois Supreme Court Rule 335(a):

VANGUARD ENERGY SERVICES, LLC

PRAIRIE POINT ENERGY, LLC d/b/a NICOR ADVANCED ENERGY LLC

MULTIUT CORPORATION

ENVIRONMENTAL LAW & POLICY CENTER

UNITED WORKERS UNION OF AMERICA, LOCAL NO. 18007

CONSTELLATION NEW ENERGY, INC.

CITIZENS UTILITY BOARD

CITY OF CHICAGO

INTEGRYS ENERGY GROUP, INC.

RETAIL GAS SUPPLIERS

ILLINOIS INDUSTRIAL ENERGY CONSUMERS

IN THE APPELLATE COURT OF ILLINOIS
FOR THE SECOND DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN
ATTORNEY GENERAL OF THE STATE
OF ILLINOIS

Petitioner – Appellant,

vs.

ILLINOIS COMMERCE COMMISSION,
NORTH SHORE GAS COMPANY,
PEOPLES GAS LIGHT & COKE COMPANY*


Respondents – Appellees.

No. _____

Petition for Review of
Orders of the Illinois
Commerce Commission

PROOF OF SERVICE

Karen L. Lusson, one of the attorneys for the People of the State of Illinois, hereby certifies that on May 2, 2008, she caused three copies of each of the foregoing Notice of Filing and Petition for Review to be filed with the Illinois Commerce Commission, through Elizabeth A. Rolando, its Chief Clerk, 527 East Capitol Avenue, Springfield, Illinois 62706, and that she caused copies of each of the foregoing Notice of Filing and Petition for Review to be served on the persons at the addresses specified on the attached Service List by depositing such copies in the U.S. mail, first class postage paid.


Karen L. Lusson

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